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EXAMINER

ASHBURN, STEVEN L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,036

Applicant(s)

JOHN J. GIOBBI

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/30/03, 3/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-7, 12, 13, 22, 25, 27, 28, 30-32, 37, 41, 42, 44-46, 51, 52, 60, 63 and 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Sizer et al., U.S. 5,923,252 (Jul. 13, 1999).

Sizer discloses a device for delivering audio and/or visual messages for marketing purposes wherein the device comprises a detection means to detect that a person is present within a predetermined detection area, which may be proximate a product to be marketed, means for determining whether the person is interested in the product and means for delivering a message if it is determined that the person may be interested in the product. *See abstract*. The device is able to be networked with other devices and/or includes an updateable memory so that control and message data can be updated from a central location in accordance with a marketing campaign. *See id*. The device is also arranged to gather statistic information on the campaign. *See id*. The particular features of the listed claims are discussed below.

Claims 1, 27, 37, 41 and 65. Acquiring a portable data unit from a data unit provider, the portable data unit including a second wireless transceiver; positioning the portable data unit in proximity to the machine, without inserting the portable data unit into any portion of the machine, to establish a wireless transmission link between the first and second wireless transceivers; and transmitting information between the portable data unit and the machine via the wireless transmission link. *See col. 6:4-17; 16:14-32*. The examiner interprets the term “gaming” to be merely descriptive of the device’s intended use

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because the claim includes no limitations describing gaming systems or rules. The device disclosed by Sizer is capable of use with a gaming machine.

Claims 2, 28, and 42. Transmitted information is selected from a group consisting of monetary information, user tracking information, user preferences, preferences, and machine data. *See col. 6:4-17; 16:14-32.*

Claims 5, 30, and 44. Transferring the information between the machine and a central host computer remote from the gaming machine. *See fig. 6(204).*

Claims 6 and 45. The wireless transmission link is selected from a group consisting of a short range, radio link and an infrared link. *See col.10:15-20.*

Claims 7 and 46. The first and second wireless transceivers are respective radio microchips. *See col. 6:4-17; 16:14-32.*

Claims 12 and 51. The transmitted information includes a personal identifier, and further including transmitting the personal identifier from the gaming machine to a central host computer, the central host computer being remote from and linked to the gaming machine. *See fig. 5, 6; col. 6:4-17; 16:14-32.*

Claims 13, 31 and 52. Transmitting centralized information from the central host computer to the machine. *See fig. 5; col. 6:12-15.*

Claims 22 and 60. Positioning the portable data unit in proximity to the gaming machine includes positioning the portable data unit within a predetermined distance of the gaming machine for at least a predetermined period of time. *See col. 2:29-3:16.*

Claims 25 and 63. The first transceiver is disposed proximate a front center portion of the machine. *See fig. 2; col. 3:58-67, 9:61-10:21, 10:43-50.*

Claim 32. The centralized information is determined at least in part by the information transferred from the gaming machine to the central host computer. *See fig. 6.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 23, 24, 26, 33, 47, 61, 62, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sizer.

Claims 8, 33, and 47. Sizer discloses transmitting information between a user device and a machine using IR and RF transceivers. *See col. 6:4-17.* Bluetooth is a standard data link format using RF transmissions usable for the same purpose as IR and RF. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system disclosed by Sizer, wherein data is transmitted between a patron's portable data unit and a machine using an RF data link, to substitute

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Bluetooth in order to exchange data between the devices using a standard datalink format to reduce engineering costs.

Claims 23 and 61. Sizer states that the detection distance may be to a maximum distance of between 0.5 and 10 meters, according to the operators preferences. *See col. 6:25-31, 11:43-12:10*. Thus, it would have been an obvious design choice for one of ordinary skill in the art at the time of the invention to modify the systems disclosed by Sizer to set the predetermined distance to no greater than about three feet to detected people within range of the device.

Claims 24 and 62. Sizer states that the period of time a user must be detected is adjustable according to the operator's preferences. *See fig. 3; col. 3:1-16, 12:18-13:44*. Thus, it would have been an obvious design choice for an artisan at the time of the invention to modify the system disclosed by Sizer to set the predetermined period of time to at least five seconds to direct messages at people who show interest in the device.

Claims 26 and 64. Sizer states that the transceiver may be positioned anywhere offering a clear view of the area to be detected. *See fig. 2; col. 3:58-67, 9:61-10:21, 10:43-50*. Thus, it would have been an obvious design choice for an artisan at the time of the invention to modify the system disclosed by Sizer to dispose the transceiver at a height proximate to a height of a waist of an average standing person to detect people of different heights.

Claims 3, 4, 9-11, 14-21, 29, 34-36, 38-40, 43, 48-50, 53-59, and 66-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raven et al., U.S. 5,429,361 (Jul. 4, 1995) in view of Sizer.

Claims 39, 66, 68 and 70. Raven discloses a player tracking system for a gaming machine wherein data carried on a player's portable data unit is used to access monetary information from the player's monetary account stored at a central host computer, the player's account is associated with the personal identifier; monetary information is transmitted from the central host computer to gaming machine and a game is played on the machine using the transmitted information. *See, e.g., fig. 1-3; col. 1:38-2:3, 10:37-11:62.* Furthermore, when the player is not interacting with the machine, the player tracking system enters an "attract mode" wherein promotional messages are displayed. *See col. 5:15-29.* Once the portable data unit is read, the device displays personalized information. *See fig. 2.* Raven discloses all the features of the listed claims except establishing a wireless link with the portable data unit when the unit is within proximity to the gaming machine, but without inserting the portable data unit in the gaming machine. Regardless, as discussed below, this feature would have been obvious to an gaming artisan in view of Sizer.

Sizer discloses an audiovisual marking device capable of detecting a portable data unit carried by a person allowing the device to automatically interact with the person within proximity of the device using personalized information contained on the data unit. *See col. 6:4-17; 16:14-32.* For example, at a trade show or exhibition a person may be given an RF card containing information on the person. *See id.* When that person approaches a device, the device detects the portable data unit and delivers information to the person which is personalized according to the identity information contained on the portable data unit. *See id.*

Sizer's system is directed at the attracting customers to interact with point-of-sale devices at retail establishments and tracking the customer's interactions. A casino is merely a specialized type of retail establishment where the point of sale devices are gaming machines. In view of Sizer, it would have been obvious to one of ordinary skill in the art of gaming devices to modify the player tracking system disclosed by Raven, wherein the machine displays an attract mode to players until it reads information

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contained on a player's portable data unit and then displays personalized information, to add the feature of establishing a wireless link with the portable data unit when the unit is within proximity to the gaming machine, but without inserting the portable data unit in the gaming machine. As suggested by Sizer, the modification would increase players' use of gaming devices by initiating personalized attraction displays when players pass within proximity of the gaming device; and at the same time, collecting statistical information on players' interest to increase the effectiveness of future displays. *See col. 8:6-49, 15:66-16:32, 22:10-36*

Claim 3. Raven describes a data unit provider being a gaming establishment. *See col. 1:55-57, 10:44-56*

Claims 4, 29, and 43. The system suggested by Raven in view of Sizer describes a portable data unit being a card storing personal identification data. Keys, portable telephones, watches, rings, necklaces, and belt buckle are similar personally carried items known in the art as substitutable means for storing personal identification data for access control systems. Thus, it would have been obvious to an artisan at the time of the invention to modify system suggested by Raven in view of Sizer, wherein a player carries an card storing personal identification data, to substitute a portable telephone, a watch, a ring, a necklace, or a belt buckle as the portable data unit.

Claims 9, 34, and 48. Raven discloses authenticating the transmitted information. *See col. 10:54-54*. Information is authenticated using the player's PIN.

Claims 10, 35, and 49. Raven describes encrypting the transmitted information. *See col. 3:38-62, 5:9-9:14*. Data is encrypted into binary, decimal, hexadecimal, and ASCII code.

Claims 11, 36, and 50. Raven describes correcting errors in the transmitted information. *See col. 5:42-47.* The system detects and corrects errors by performing a Check Sum and retransmitting if the test fails.

Claims 14 and 53. Raven describes centralized information being selected from a group consisting of monetary information, award information, and game customization information. *See col. 3:38-4:61, 10:38-11:46.*

Claims 15, 18, 54, and 56. Raven describes accessing monetary information including an account balance in a player's account at a central host computer associated with the personal identifier. *See col. 10:38-11:62.*

Claim 16. Raven describes adding a number of credits to the gaming machine no greater than the account balance. *See id.*

Claims 17 and 55. Raven describes game customization information adapts the gaming machine to at least one of player preferences and casino preferences. *See col. 3:38-4:61.*

Claims 19 and 57. Raven describes transmitting centralized information from the central host computer to the gaming machine, the transmitted centralized information being determined by the account information. *See col. 10:38-11:62.*

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Claims 20 and 58. Raven describes monetary information corresponding to a number of credits, and further including adding the number of credits to the gaming machine. *See id.*

Claims 21 and 59. Raven describes player tracking information is selected from a group consisting of a personal identifier and game play data. *See col. 1:51-2:3; 7:51-8:25.*

Claims 38, 40, 67 and 69. Raven describes adding a number of credits to the gaming machine based on the transmitted monetary information. *See id.*

Claim 71. Sizer describes the wireless transmission link is selected from a group consisting of a radio link and an infrared link. *See Sizer, col.10:15-20.*

Claim 72. Raven describes a system for playing a game includes receiving a wager, randomly selecting a game outcome from a plurality of possible outcomes, and awarding a payoff if the selected game outcome matches predetermined criteria. *See fig. 1.* Raven discloses a slot machine. Slot machines receive wagers, randomly select game outcomes from a plurality of possible outcomes, and award payoffs if the selected game outcome matches predetermined criteria

Claim 73. Raven describes receiving a wager being accomplished using the transmitted information. *See col. 10:38-11:62.*

Claim 74. Sizer describes positioning the portable data unit in proximity to the gaming machine includes standing or sitting in front of the gaming machine. *See col. 2:29-3:16, 6:25-31, 11:43-12:10.*

Prior Art, Not Relied On

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure:

- U.S. 6,110,041 discloses a player tracking system which automatically adapts a gaming device to a particular player's preferences.
- U.S. 5,926,531 discloses a key combined with a portable data unit storing personal information.
- U.S. 5,113,183 discloses a name tag combined with a portable data unit storing personal information.
- U.S. 4,800,543 discloses a watch combined with a portable data unit storing personal information.
- U.S. 6,031,910 discloses a portable data unit storing personal information including means for protecting and encrypting information stored on the unit

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.



MARK SAGER
PRIMARY EXAMINER